



## Meeting Minutes of the Lexington Board of Appeals Conducted Virtually, Via Zoom March 26<sup>th</sup>, 2026, 7:00 p.m.

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**Board Members:** Chair – Ralph D. Clifford, Nyles N. Barnert, Norman P. Cohen, James A. Osten, and Associate Member Kathryn A. Roy

**Alternate Member:** Scott E. Cooper

**Administrative Staff:** Jim Kelly, Building Commissioner, Olivia Lawler, Zoning Administrator, and EmmaJean Anjoorian, Department Assistant

**Address: 5 Rindge Avenue (ZBA-25-24)**

The petitioner is requesting ONE (1) SPECIAL PERMIT in accordance with the Zoning By-Law (Chapter 135 of the Code of Lexington) section(s) 135-9.4 and 135-8.4.2 allow modification of a non-conforming structure to allow a rear yard setback of 9 ft instead of the required 15 ft.

The petitioner submitted the following information with the application: Nature and Justification, Plot Plan, Elevations, Floor Plans, Abutter Support Letters, Updated Plans dated March 2<sup>nd</sup>, 2026, Applicant Counsel Letter to the ZBA, and Map of Abutter Support.

Prior to the meeting, the petitions and supporting data were reviewed by the Building Commissioner, the Conservation Director, the Town Engineer, the Select Board, the Planning Director, the Historic District Commission Clerk, the Historical Commission, Economic Development, and the Zoning Administrator. Comments were received from the Zoning Administrator, Building Commissioner, and the Conservation Director.

The Hearing opened on December 11<sup>th</sup>, 2025, and continued to January 8<sup>th</sup>, 2026, February 12<sup>th</sup>, 2026, and March 12<sup>th</sup>, 2026.

Petitioner: Allison Machado dos Santos on behalf of Leora Tec

Mr. Paul Haverty, Blatman, Bobrowski, Haverty, and Silverstein, LLC, began his presentation by stating that his office represents Ms. Leora Tec, 5 Rindge Avenue, and explained that Ms. Tec seeks a finding from the Board under Section 135-8.4.2 of the Lexington Zoning Bylaw to allow the construction of a deck on the rear of her home. Mr. Haverty then explained that Ms. Tec has a pre-existing, non-conforming home since the existing structure has a rear setback of eight (8) feet and two (2) inches from the rear property line, instead of the required fifteen (15) feet. Mr. Haverty further explained that Ms. Tec originally proposed constructing a deck that would increase the existing nonconformity and have a rear yard setback of 4.7 feet but changed the proposal to have a rear yard setback of nine (9) feet after receiving Board feedback from the previous hearings. Mr. Haverty noted that the deck will have a further rear yard setback from the existing structure, so the proposal will not increase the nonconforming nature of the property. Mr. Haverty then explained that the proposed deck will be raised on footings, which will result in minimal impact on the property's footprint, and that Ms. Tec will access the deck through the living room. Mr. Haverty noted that after the discussions at previous meetings, Ms. Tec had considered putting the deck above the existing three (3) season porch but determined that that possibility would not be feasibility for both safety and aesthetic reasons. Mr. Haverty then

explained that the Board bases their standard for approval on whether the proposal will be substantially more detrimental to the neighborhood than the existing nonconformity and then stated that he believed that the proposal is not substantially more detrimental as indicated by the abutter support letters from the closest abutters. Mr. Haverty reiterated that the proposal will have very minimal ground impact and stated that the proposal will not have an impact on the wetlands since the deck will be on footings. Mr. Haverty then stated that Ms. Tec has expressed her willingness to have a decision with reasonable conditions, including a condition that would require a clear delineation of the rear property line, as discussed in previous meetings.

Ms. Roy stated that the proposed certified plot plan showed the deck having a rear yard setback 4.7 feet. Mr. Haverty explained that that plot plan is the original one and that they would accept a condition that would require them to submit a new plot plan to the Board that shows a nine (9) foot setback. Mr. Haverty then explained that they tried to get a new plot plan to the Board before the hearing but were unable to. Mr. Haverty reiterated that they would accept submitted a new plot plan as a condition and stated that they agree that they should have one before pulling a building permit. Ms. Roy then asked if the proposed deck would have a roughly nine (9) foot setback from the rear property line, which Mr. Haverty confirmed and stated that the deck would have a further rear yard setback from the existing three (3) season porch.

Mr. Osten stated that the Town of Arlington had submitted a written comment about having boundary markers in the rear, to which Mr. Haverty stated that they would accept that condition. Mr. Osten then asked if Mr. Haverty had had contact with the Town of Arlington, to which Mr. Haverty stated that he knew of the letter that the Town of Arlington had sent.

Mr. Clifford asked about the deck's dimensions, to which Mr. Haverty responded that the deck will have a nine (9) foot setback from the rear property line. Mr. Clifford stated that the deck will have a size of whatever a nine (9) foot setback allows, which Mr. Haverty confirmed. Ms. Lawler stated that the proposed deck has a size of 17.9 feet by 8.5 feet. Mr. Clifford noted that the original plot plan includes a structure labeled "landing" and stated that the structure encroaches into Arlington's wetlands. Mr. Clifford then stated that the Board would include another condition to move the "landing" on to Ms. Tec's property completely or to have it removed, but that the landing cannot continue as an encroachment. Ms. Tec explained that the landing, a set of stairs, has always existed there. Mr. Clifford asked Ms. Tec if she had used the stairs, to which Mr. Tec stated that nobody uses the stairs and that the stairs reside between her house and the house next to her. Mr. Haverty stated that he has a concern about removing the stairs since removing the stairs might take away the rights from the neighboring property. Ms. Roy noted that the stairs appear to reside on Arlington's property, to which Mr. Clifford stated that most of the stairs reside on Arlington's property, while only some reside on Ms. Tec's property. Mr. Clifford then noted that based on the plot plan, the stairs do not appear to cross over into the neighbor's property. While Mr. Clifford acknowledged the complicated nature of the stairs, Mr. Clifford reiterated that the stairs encroach onto the conservation land and stated that the Board tries to protect conservation land. Ms. Tec stated that the stairs have resided there since she has lived in the house. Mr. Haverty stated that they will accept whatever conditions the Board imposes.

Mr. Cohen asked if the Lexington Conservation Commission or the Arlington Conservation Commission had approved of the proposal. Mr. Haverty explained that they will need to go to the Lexington Conservation Commission for a determination of applicability after they get their needed relief from the Board.

Mr. Barnert stated that previous discussions had established that the applicant cannot mow land owned by the Town of Arlington.

Ms. Lawler explained that Lexington's Conservation Director had made a comment at one of the previous hearings where she expressed her willingness to approve the proposal without a determination if the Board adds a condition for property boundary markers to ensure that no further encroachment would occur towards Arlington's land or the wetlands.

No further questions from the Board.

No further comments or questions from the Public.

No further questions from the Board.

At 7:17 p.m., Mr. Clifford moved to close the Hearing.

At 7:17 p.m., Mr. Barnert seconded Mr. Clifford

At 7:17 p.m., the hearing closed (a roll call vote took place: Ralph D. Clifford – Yes, Nyles N. Barnert – Yes, Norman P. Cohen – Yes, James A. Osten – Yes, and Kathryn A. Roy – Yes).

No further discussion from the Board.

Mr. Clifford stated that the special permit would have one condition for placing boundary markers between Ms. Tec's property and Arlington's property, to the reasonable satisfaction of the Lexington Conservation Director. Mr. Clifford then stated that another condition would require the removal of the landing or for the landing to reside on Ms. Tec's property entirely. Mr. Clifford then stated that the third condition would require the deck to have a setback of no less than nine (9) feet from the rear property line.

Mr. Haverty asked whether they will need to submit the revised plot, to which Mr. Clifford stated that the building process will require a plot plan. Mr. Clifford then stated that the Building Department will decide whether they need one before or after they build the deck.

At 7:18 p.m., Mr. Clifford moved to reopen hearing

At 7:19 p.m., Mr. Barnert seconded Mr. Clifford.

At 7:19 p.m., the Board voted to reopen the Hearing (a roll call vote took place: Ralph D. Clifford – Yes, Nyles N. Barnert – Yes, Norman P. Cohen – Yes, James A. Osten – Yes, and Kathryn A. Roy – Yes).

Mr. Allison Machado dos Santos stated that he had created a plot plan based on the old plot plan. Mr. Clifford asked Mr. Machado dos Santos if he had made the changes to the plot plan or if a registered land surveyor had done so. Mr. Machado dos Santos stated that he did not make changes to the land surveyor's plot plan but rather made changes on top of the land surveyor's plot plan. Mr. Machado dos Santos then showed an image of the deck based on the line of the plot plan and stated that he understood that the Building Department may ask him for another one. Mr. Clifford then stated that the Board understands the proposal and how it has changed and stated that the Board will vote on the special permit based on those changes. Mr. Clifford then noted that the Building Department will determine whether they need another plot plan. Mr. Clifford then stated that the new deck will have a setback of nine (9) feet or more from the Arlington property line and cannot have a setback of anything less than that. Mr. Clifford then

acknowledged that the change resulted in a smaller deck. Mr. Machado dos Santos stated that he had put the lines on the plan to show that the deck will have a rear yard setback of nine (9) feet. Mr. Clifford asked if Mr. Machado dos Santos if he had submitted the plans to the Building Department through the portal, to which Mr. Machado dos Santos stated that he had.

At 7:23 p.m., Mr. Clifford move to re-close the Hearing.

At 7:23 p.m., Mr. Barnert seconded Mr. Clifford.

At 7:23 p.m., the Board re-closed the Hearing a roll call vote took place: Ralph D. Clifford – Yes, Nyles N. Barnert – Yes, Norman P. Cohen – Yes, James A. Osten – Yes, and Kathryn A. Roy – Yes).

Mr. Clifford asked if the staff understood that the Board had decided that the deck will have a nine (9) foot rear yard setback in addition to the other two other discussed conditions. Ms. Lawler confirmed that they did.

At 7:23 p.m., Mr. Clifford moved to grant special permit subject to the conditions discussed.

At 7:24 p.m., Mr. Barnert seconded Mr. Clifford.

At 7:24 p.m., the Board of Appeals voted five (5) in favor, zero (0) opposed, and zero (0) in abstention to grant ONE (1) SPECIAL PERMIT in accordance with the Zoning By-Law (Chapter 135 of the Code of Lexington) section(s) 135-9.4 and 135-8.4.2 allow modification of a non-conforming structure to allow a rear yard setback of 9 ft instead of the required 15 ft (a roll call vote took place: Ralph D. Clifford – Yes, Nyles N. Barnert – Yes, Norman P. Cohen – Yes, James A. Osten – Yes, and Kathryn A. Roy – Yes).

**Meeting Minutes of the Lexington Board of Appeals**  
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**March 26<sup>th</sup>, 2026, 7:00 p.m.**

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**Board Members:** Chair – Ralph D. Clifford, Nyles N. Barnert, Norman P. Cohen, James A. Osten, and Associate Member Kathryn A. Roy

**Alternate Member:** Scott E. Cooper

**Administrative Staff:** Jim Kelly, Building Commissioner, Olivia Lawler, Zoning Administrator, and EmmaJean Anjoorian, Department Assistant

**Address: 39 Bedford Street (ZBA-20-59)**

The petitioner is requesting a SPECIAL PERMIT RENEWAL in accordance with the Zoning By-Law (Chapter 135 of the Code of Lexington) section(s) 135-9.4 and 135-3.4, Table 1 Permitted Uses and Development Standards, Line L.1.01 to allow renewal of Special Permit dated January 14<sup>th</sup>, 2021, to allow motor vehicle sales in the CRS Zoning District.

The petitioner submitted the following information with the application: Nature and Justification, Plot Plan, Special Permit dated July 28<sup>th</sup>, 2011, Special Permit dated January 14<sup>th</sup>, 2021, and Class II License Renewal dated December 8<sup>th</sup>, 2025.

Prior to the meeting, the petitions and supporting data were reviewed by the Building Commissioner, the Conservation Director, the Town Engineer, the Select Board, the Planning Director, the Historic District Commission Clerk, the Historical Commission, Economic Development, and the Zoning Administrator. Comments were received from the Zoning Administrator, Building Commissioner, Conservation Director, and Planning Department.

At 7:25 p.m., the Hearing opened.

Petitioner: Basaam Issa

Mr. Basaam Issa began his presentation by stating that he has owned his business since 1988 and that he has owned the property since 2016. Mr. Issa then stated how he has had permits for many years that he continues to renew with no issues. Mr. Issa continued by explaining that the small property does not have too many parking spaces and that he seeks the dealer license so that he can do proper and legal transactions. Mr. Issa concluded by stating that he does not park cars on the property for sales.

Ms. Roy asked Mr. Issa if he wanted to respond to the written public comment that the Board had received. Mr. Clifford then asked Mr. Issa if he knew of the written public comment from one of his neighbors. Mr. Issa stated that he knew about the letter and that he did not know what had happened. Mr. Issa then stated that he had read the letter but had not met the person who managed the neighboring property. Mr. Issa then explained that some of the people who occupy the neighboring property come to him as customers and that he returns the customer's cars to their property once he has completed service. Mr. Issa then stated that recently someone from Liberty Buildings asked him if some cars parked in the back belonged to him, to which Mr. Issa responded that they did not. Mr. Issa noted that many people park in the back and noted that for

the past few years he cannot access Liberty Buildings from the gas station since the entrance from the gas station to the back parking lot has closed. Mr. Issa reiterated that he had not met the person who wrote the letter and stated that he would have addressed the concern.

Mr. Osten noted the difficult nature of identifying the parking spaces in the lot and asked Mr. Issa if he could clearly mark the parking spaces. Mr. Issa expressed his willingness to do this in the nicer weather and stated that he plans on seal coating the property. Mr. Issa also explained that he paints the stripes for the parking spaces every five to six years.

Mr. Clifford asked Mr. Issa if he could mark the parking spaces with a sign that indicates that the parking spaces belong to the gas station and another sign that says do not park anywhere else. Mr. Issa expressed his willingness to do that and reiterated that once on the property, a car must park on the property since access to the back parking lot has closed.

Mr. Issa stated that he has run his business for thirty-eight years in Lexington and that he has always done it by the rules. Mr. Issa then noted that he wished that the Liberty Buildings had come to talk to him about the parking concern as he would have resolved the concern.

No further questions from the Board.

No further comments or questions from the Public.

No further questions from the Board.

At 7:35 p.m. Mr. Clifford move to close the Hearing.

At 7:35 p.m., Multiple Board Members seconded Mr. Clifford

At 7:35 p.m., the Hearing closed (a roll call vote took place: Ralph D. Clifford – Yes, Nyles N. Barnert – Yes, Norman P. Cohen – Yes, James A. Osten – Yes, and Kathryn A. Roy – Yes).

Mr. Barnert noted that the Board has issued the special permit for years and said that the Board should continue to issue the permit the same way.

Mr. Clifford suggested renewing the special permit on the same terms and conditions as it currently exists.

No further discussion from the Board.

At 7:36 p.m., Mr. Clifford moved to waive the requirement for recent plot plan.

At 7:36 p.m., Mr. Cohen seconded Mr. Clifford.

At 7:36 p.m., the Board moved to waive the requirement for a recent plot plan (a roll call vote took place: Ralph D. Clifford – Yes, Nyles N. Barnert – Yes, Norman P. Cohen – Yes, James A. Osten – Yes, and Kathryn A. Roy – Abstain).

At 7:36 p.m., Mr. Clifford moved to approve the petition on a new five-year term.

At 7:37 p.m., Mr. Cohen seconded Mr. Clifford.

At 7:37 p.m., the Board of Appeals voted four (4) in favor, zero (0) opposed, and one (1) in abstention to grant a SPECIAL PERMIT RENEWAL in accordance with the Zoning By-Law (Chapter 135 of the Code of Lexington) section(s) 135-9.4 and 135-3.4, Table 1 Permitted Uses and Development Standards, Line L.1.01 to allow renewal of Special Permit dated January 14th, 2021, to allow motor vehicle sales in the CRS Zoning District (a roll call vote took place: Ralph D. Clifford – Yes, Nyles N. Barnert – Yes, Norman P. Cohen – Yes, James A. Osten – Yes, and Kathryn A. Roy – Abstain).

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**Board Members:** Chair – Ralph D. Clifford, Nyles N. Barnert, Norman P. Cohen, James A. Osten, and Associate Member Kathryn A. Roy

**Alternate Member:** Scott E. Cooper

**Administrative Staff:** Jim Kelly, Building Commissioner, Olivia Lawler, Zoning Administrator, and EmmaJean Anjoorian, Department Assistant

**Other Business:**

1. Minutes from the March 12<sup>th</sup>, 2026, Meeting

At 7:37 p.m., Mr. Clifford moved to approve the minutes from the March 12<sup>th</sup>, 2026 Meeting.

At 7:37 p.m., Mr. Barnert seconded Mr. Clifford.

At 7:36 p.m., the Board of Appeals voted four (4) in favor, zero (0) opposed, and one (1) in abstention to approve the minutes from March 12<sup>th</sup>, 2026, Hearing (a roll call vote took place: Ralph D. Clifford – Yes, Nyles N. Barnert – Yes, Norman P. Cohen – Yes, James A. Osten – Yes, and Kathryn A. Roy – Abstain.)

At 7:38 p.m., Mr. Clifford moved to adjourn the meeting.

At 7:38 p.m., Mr. Barnert seconded Mr. Clifford.

At 7:38 p.m., the Board voted to Adjourn (a roll call vote took place: Ralph D. Clifford – Yes, Nyles N. Barnert – Yes, Norman P. Cohen – Yes, James A. Osten – Yes, and Kathryn A. Roy – Yes.)